

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part I. Office of the Secretary**  
**Subpart 1. Departmental Administrative Procedures**

**Chapter 9. Petition for Rulemaking**

**§901. Scope**

In general, rulemaking to adopt, amend, or rescind any regulation may be initiated by any division as its own option, upon the recommendation of another agency of the State of Louisiana, or at the petition of any interested person. This Chapter addresses general requirements for petitions requesting rulemaking. In all cases, petitions for rulemaking shall not:

1. exceed the authority of the division or administrative authority;
2. contravene any other regulation of the division or agency or other state or federal regulation; or
3. contravene any federal grant or federal program authorization requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

**§903. Rescission**

Section 2.13 of the Rules of Procedure of the Louisiana Environmental Control Commission dated July 22, 1980, and effective August 20, 1980, is hereby rescinded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

**§905. Definitions**

*Administrative Authority* — the secretary of the Department of Environmental Quality or his designee.

*Department* — the Department of Environmental Quality as created by R.S. 30:2001 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

**§907. Content of a Rulemaking Petition**

Any interested person may petition the administrative authority in writing to issue, amend, or rescind any regulation.

A. The petition shall be addressed to the assistant secretary of the specific office that oversees the regulation.

B. The petition shall be submitted by certified mail.

C. The petition shall include:

1. the petitioner's name and address;

2. the petitioner's interest in the proposed action;

3. the basis for the request;

4. the substance or specific text of any proposed regulation or amendment or a description of the regulation, the rescission, or the amendment that is desired; and

5. any other information that justifies the proposed action.

D. The petition shall address any additional requirements specific to the requests illustrated below:

1. for petitions seeking to exclude a hazardous waste produced at a particular facility, the person shall comply with LAC 33:V.105.M;

2. for petitions seeking approval of alternate equivalent hazardous waste testing or analytical methods, the person shall comply with LAC 33:V.105.I.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:

**§909. Processing a Rulemaking Petition**

A. Upon receipt, the petition for rulemaking shall be reviewed for completeness, as prescribed in LAC 33:I.907. If found complete, the petition shall be processed in accordance with this Section.

B. Informal Fact-finding Public Hearing. Upon the written request of any interested person, the administrative authority may, at its discretion, hold an informal public hearing to consider oral comments on the petition. A person requesting a hearing must state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The administrative authority may in any case decide on its own motion to hold an informal public hearing.

1. The administrative authority shall publish a notice announcing the fact-finding hearing. The notice shall:

a. be published in a major newspaper of general circulation within the area affected by the petition for rulemaking and in the official journal of the state;

b. be published within 7 to 14 days preceding the scheduled fact-finding hearing; and

c. contain the time, date, and place and the petitioner's stated

basis for the request as found in the original petition for rulemaking.

2. After the conclusion of a fact-finding hearing, the administrative authority shall evaluate the comments presented. The person conducting the hearing shall prepare a report of the hearing and shall file the report in the record of the hearing (as provided in R.S. 30:2016(F)).

EB. Within 90 days of receipt of the petition for rulemaking, the assistant secretary shall deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking by providing the petitioner with a completed Regulatory Agenda Form as provided in DEQ Policy Number 0003-88, "Rule Development Procedure." provide the petitioner with a preliminary written decision regarding rulemaking.

1. If the assistant secretary decides to proceed with rulemaking, the standard department procedures for processing a proposed regulation shall be followed (as provided for in R.S. 49:950 et seq., Administrative Procedure Act). In addition, a notice of proposed rulemaking the initiation of rulemaking shall be published in a major newspaper of general circulation within the area affected by the petition for rulemaking, and or in the official journal of the state, if the impact of the proposed rule is statewide.

2. If the assistant secretary decides not to proceed with rulemaking, a tentative the decision to deny the petition, stating reasons for the denial, shall be published in a major newspaper of general circulation within the area affected by the petition for rulemaking, or in the official journal of the state, if the impact of the petition denial is statewide, and in the *Louisiana Register*.

3. If the impact of the rulemaking petition decision (issuance or denial) is statewide, newspaper notice requirements may be satisfied by publication in only the official state journal.

D. The final decision on the petition, either adoption of a rule or final decision to deny the petition, shall be published in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part V. Hazardous Waste and Hazardous Materials**  
**Subpart 1. Department of Environmental**  
**Quality—Hazardous Waste**

**Chapter 1. General Provisions and Definitions**

**§105. Program Scope**

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including "solid waste" and "hazardous waste", appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in LAC 33:V.105 this Section.

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[ See Prior Text in A-G ]

H. General Procedures to Petition the Administrative Authority. The procedure that must be followed to petition for rulemaking can be found in LAC 33:I.Chapter 9.

~~1. Any person may petition the administrative authority to modify or revoke any provision in LAC 33:V.Subpart 1. This Subpart sets forth general requirements which apply to all such petitions. LAC 33:V.105.I sets forth additional requirements for petitions for equivalent testing or analytical methods.~~

~~2. Each petition must be submitted to the administrative authority by certified mail and must include:~~

- ~~\_\_\_\_\_ a. the petitioner's name and address;~~
- ~~\_\_\_\_\_ b. a statement of the petitioner's interest in the proposed action;~~
- ~~\_\_\_\_\_ c. a description of the proposed action including (where appropriate) suggested regulatory language; and~~
- ~~\_\_\_\_\_ d. a statement of the need and justification for the proposed action, including any supporting tests, studies, and other information.~~

~~3. The administrative authority will make a tentative decision to grant or deny a petition and will publish notice of such petition decision, either in the form of an advanced notice of proposed rulemaking, a proposed rule, or a tentative determination to deny the petition, in the *Louisiana Register* for written public comment.~~

~~4. Upon the written request of any interested person, the administrative authority may, at its discretion, hold an informal public hearing to consider oral comments on the tentative decision. A person requesting a hearing must state the issues to be raised and explain why written comments would not suffice to~~

~~communicate the person's views. The administrative authority may in any case decide on its own motion to hold an informal public hearing.~~

~~5. After evaluating all public comments, the administrative authority will make a final decision by publishing in the *Louisiana Register* a regulatory amendment or a denial of the petition.~~

I. Petitions for Equivalent Testing or Analytical Methods

1. Any person seeking approval of equivalent testing or analytical method may petition for a regulatory amendment under LAC 33:V.105.H and I and LAC 33:I.Chapter 9. To be successful, the ~~person~~petitioner must demonstrate to the satisfaction of the administrative authority that the proposed method is equal to or superior to the corresponding method prescribed in Method 1311, in 40 CFR Part 268 Appendix 1, in terms of its sensitivity, accuracy, and precision (i.e., reproducibility).

2. In addition to the information required by LAC 33:V.105.H.2I.Chapter 9, each petition must include:

- a. a full description of the proposed method, including all procedural steps and equipment used in the method;
- b. a description of the types of wastes or waste matrices for which the proposed method may be used;
- c. comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," (EPA Publication Number SW-846), latest edition, as amended incorporated by reference at LAC 33:V.110;
- d. an assessment of any factors which may interfere with or limit the use of the proposed method; and
- e. a description of the quality control procedures necessary to ensure the sensitivity, accuracy, and precision of the proposed method.

3. After receiving a petition for an equivalent method, the administrative authority may request any additional information on the proposed method which it may reasonably require to evaluate the method.

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[ See Prior Text in J- L.2 ]

M. Petitions to Exclude a Waste Produced at a Particular Facility

1. Any person seeking to exclude a waste at a particular generating facility from the lists in LAC 33:V.4901 may petition for a regulatory amendment under this Subsection and LAC 33:V.105.H. I.Chapter 9. To be successful:

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[ See Prior Text in M.1.a - 4.d ]

5. The procedures in ~~LAC 33:V.105.H and M~~ and LAC 33:I.Chapter 9 may also be used to petition the administrative authority for a regulatory amendment to exclude from LAC 33:V.109.Hazardous Waste.2.c or 4, a waste which is described in LAC 33:V.109.Hazardous Waste.2.c or 4 and is either a waste listed in LAC 33:V.4901, or is derived from a waste listed in LAC 33:V.4901. This exclusion may only be issued for a particular generating, storage, treatment, or disposal facility. The petitioner must make the same demonstration as required by LAC 33:V.105.M.1. Where the waste is a mixture of solid waste and one or more listed hazardous wastes or is derived from one or more hazardous wastes, his demonstration must be made with respect to the waste mixture as a whole. Analyses must be conducted for not only those constituents for which the listed waste contained in the mixture was listed as hazardous, but also for factors (including additional constituents) that could cause the waste mixture to be a hazardous waste. A waste which is so excluded may still be a hazardous waste by LAC 33:V.4903.

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[ See Prior Text in M.6 ]

7. Each petition must include, in addition to the information required by ~~LAC 33:V.105.H.2~~ I.Chapter 9:

\* \* \*

[ See Prior Text in M.7.a - 10 ]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part V. Hazardous Waste and Hazardous Materials**  
**Subpart 1. Department of Environmental**  
**Quality—Hazardous Waste**

**Chapter 25. Landfills**

**§2515. Special Requirements for Bulk and Containerized Liquids**

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[ See Prior Text in A-E.2 ]

F. Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are: materials listed or described in LAC 33:V.2515.F; materials that pass one of the tests in LAC 33:V.2515.F.2; or materials that are determined by the administrative authority to be nonbiodegradable through the petition process in LAC 33:V.1051.Chapter 9.

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[ See Prior Text in F.1-2.b ]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:821 (September 1996), amended by the Office of the Secretary, LR 23

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part XV. Radiation Protection**

**Chapter 1. General Provisions****§112. Rulemaking**

The procedure that must be followed to petition for rulemaking can be found in LAC 33:I.Chapter 9.

~~——— A. Rulemaking may be initiated by the division at its own instance, on the recommendation of another agency of the state of Louisiana, or on the petition of any other interested person.~~

~~——— B. Any interested person may petition the administrative authority in writing to issue, amend, or rescind any regulation. The petition should be addressed to the assistant secretary of the Office of Air Quality and Radiation Protection. The petition shall state the substance or text of any proposed regulation or amendment, or shall specify the regulation, the rescission or amendment of which is desired; and it shall state the basis for the request. The petition may request the division to suspend all or part of any licensing proceeding to which the petitioner is a party pending disposition of the petition for rule making.~~

~~——— C. No hearing will be held on the petition unless the administrative authority deems it advisable. If the administrative authority determines that sufficient reason exists, he or she will, within 90 days of receipt of the petition, publish a notice of proposed rulemaking in the *Louisiana Register* and in the official journal of the parish of the domicile of the petitioner with the hearing date to be not less than 20 days after the date of the last publication. In any other case, it will deny the petition, within 90 days of receipt of the petition, and will notify the petitioner with a simple statement in writing of the grounds for denial.~~

~~——— D. When the administrative authority proposes to adopt, amend, or repeal a regulation, he or she will cause a notice of proposed rulemaking to be published in the *Louisiana Register*. All proceedings will be carried out in accordance with the rules and procedures set forth in R.S. 49:950 et seq., "Administrative Procedure Act."~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of the Secretary, LR 23